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8 Attorney for Plaintiff  
9 TINA FAIN

10 **UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA  
12 FRESNO DIVISION**

13 TINA FAIN,

14 Plaintiff,

15 v.

16 KILOLO KIJAKAZI, Acting  
17 Commissioner of Social Security,

18 Defendant.

Case No. 1:22-cv-01257-SKO

**ORDER ON STIPULATION AND  
UNOPPOSED MOTION FOR THE  
AWARD AND PAYMENT OF  
ATTORNEY FEES AND EXPENSES  
PURSUANT TO THE EQUAL ACCESS  
TO JUSTICE ACT**

**(Doc. 19)**

19  
20  
21 IT IS HEREBY STIPULATED by and between the parties through their  
22 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
23 attorney fees and expenses in the amount of \$7,500.00, under the Equal Access to  
24 Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This  
25 amount represents compensation for all legal services rendered on behalf of Plaintiff by  
26 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d),  
27 1920.  
28

1 After the Court issues an order for EAJA fees to Plaintiff, the government will  
2 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to  
3 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability  
4 to honor the assignment will depend on whether the fees are subject to any offset  
5 allowed under the United States Department of the Treasury's Offset Program. After  
6 the order for EAJA fees is entered, the government will determine whether they are  
7 subject to any offset.

8 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
9 determines that Plaintiff does not owe a federal debt, then the government shall cause  
10 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,  
11 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

12 This stipulation constitutes a compromise settlement of Plaintiff's request for  
13 EAJA attorney fees and does not constitute an admission of liability on the part of  
14 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
15 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
16 Francesco Benavides, including the Law Offices of Francesco Benavides, may have  
17 relating to EAJA attorney fees in connection with this action.

18 Any EAJA funds paid directly to Plaintiff's attorney may be made via EFT or  
19 check.

20 This award is without prejudice to the rights of Francesco Benavides to seek  
21 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings  
22 clause provisions of the EAJA.

23  
24 Respectfully submitted,

25  
26 Dated: November 16, 2023

27 Law Offices of Francesco Benavides

28 By: /s/ Francesco Benavides

FRANCESCO P. BENAVIDES  
Attorney for Plaintiff

Dated: November 16, 2023

PHILLIP A. TALBERT  
United States Attorney  
MATHEW W. PILE  
Associate General Counsel  
Social Security Administration

By: Lars Nelson\*  
LARS NELSON  
Special Assistant U.S. Attorney  
Attorneys for Defendant  
(\*Permission to use electronic signature  
obtained via email on November 15, 2023).

**ORDER**

Based upon the parties' foregoing Stipulation and Unopposed Motion for the Award and Payment of Equal Access to Justice Act Fees and Expenses (Doc. 19),

**IT IS ORDERED** that fees and expenses in the amount of \$7,500.00 as authorized by 28 U.S.C. § 2412, and no costs under 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **November 17, 2023**

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE